



# Memorandum

**TO:** BUILDING BETTER  
TRANSPORTATION COMMITTEE

**FROM:** James R. Helmer  
Betsy Shotwell

**SUBJECT: LEGISLATIVE REPORT**

**DATE:** 10-18-04

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Approved

Date

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## **RECOMMENDATION**

Accept report on transportation related legislative activities.

## **BACKGROUND**

This report contains an update of ballot measures on the November 2, 2004 statewide ballot that have transportation implications. Proposition 68 and Proposition 70, which if passed by the voters would expand casino-style gambling across California. While these ballot measures do not specifically mention transportation, their passage would reverse provisions in the FY 2005 state budget package, which authorize up to \$1.5 billion in transportation funds. The City Council, at its October 5, 2004, meeting approved a position to oppose both Propositions 68 and 70.

In addition, this report provides an overview of the City's legislative policies and activities related to pavement maintenance. This information responds to questions and issues raised by the Building Better Transportation Committee (BBT) at its September meeting.

## **ANALYSIS**

### **CALIFORNIA STATE BALLOT PROPOSITIONS**

Propositions 68 and 70 are two competing measures appearing on the November 2004 statewide ballot. These propositions would provide for the expansion of casino-style gambling across California. Although the measures do not make reference to transportation, their passage would reverse provisions in the FY 2005 state budget package that authorizes up to \$1.5 billion in transportation funding. Because the source of these revenues are bonds backed by proceeds from renegotiated tribal gaming compacts they are valid only if both Propositions 68 and 70 are defeated.

In May 1999, the California Transportation Commission (CTC) published a 10-year needs assessment of the state's transportation system, estimating unfunded transportation needs at \$117 billion. In response, then-Governor Gray Davis and the Legislature worked together to enact the Traffic Congestion Relief Act of 2000 (TCRF). This Act provided \$6.8 billion in new funding for transportation over a six-year period by transferring revenues generated by the state's sales tax on gasoline from the General Fund to the Transportation Investment Fund. Prior to the passage of the TCRF, these revenues were deposited into the General Fund to support general state government programs. The Traffic Congestion Relief Act also included a method for distributing these revenues among more than 140 Traffic Relief Congestion Program (TCRP) projects, such as BART to Silicon Valley, as well as to the State Transportation Improvement Program (STIP), local streets and roads (roughly \$2 million a year to the City of San José), and to the Public Transportation Account.

In March 2002, Proposition 42 was passed by 70 percent of voters. Proposition 42 was a constitutional amendment, which permanently dedicated gasoline sales tax revenues to transportation infrastructure needs. Proposition 42 included provisions that allowed for the suspension of these revenues from the General Fund in any fiscal year if the Governor declares that the transfer would negatively impact the General Fund and if two-thirds of both houses of the Legislature concurred.

Due to the continued downturn in the state economy, the Proposition 42 funding for transportation has been suspended. The loss of these funds has severely impacted the ability of the state, local governments and transportation organizations to meet the transportation needs of California.

As a part of the FY 2005 state budget agreement, the legislature passed and the Governor signed AB 687 (Nunez), which ratified tribal gaming compacts with five Native American Tribes. The renegotiated compacts allow these five tribes to expand their gaming activities in return for contributing more of their net proceeds to the state, as well as agreeing to conduct environmental reviews and to mitigate for off-reservation impacts resulting from their gaming operations. In addition, AB 687 authorizes the state to issue up to \$1.5 billion in bonds for transportation funding backed by tribal gaming revenues generated through these compacts.

AB 687 calls for transferring the first \$1.2 billion in bond proceeds to the Traffic Congestion Relief Act (TCRF). Under this plan, the Traffic Congestion Relief Program (TCRP) would receive \$290 million to fund high priority projects, like BART to Silicon Valley, and local streets and roads would receive \$192 million statewide for local pavement programs. In the nine-county Bay Area this translates into approximately \$126 million in STIP funds, and \$39 million for local streets and roads. The passage of either Proposition 68 or Proposition 70 would override the agreement codified in AB 687 and jeopardize vital transportation funding.

Propositions 68 and 70 are opposed by a wide-ranging and diverse coalition. Those opposing the measures include: Governor Arnold Schwarzenegger, the Metropolitan Transportation Commission (MTC), the Santa Clara Valley Transportation Authority (VTA), the Santa Clara County Board of Supervisors, the California Police Chiefs' Association, and the Silicon Valley Chamber of Commerce.

## PAVEMENT MAINTENANCE

Funding for transportation improvements including local street maintenance is received from programs that are administered at all levels of government. At the federal level, funding has been available through the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21); the Traffic Congestion Relief Program (TCRP) and Proposition 42 at the state level; and, through various sales tax measures at the local level. The City of San José has been active at all levels of government and in a multitude of activities to promote funding for local street maintenance. In addition, “transportation investment to preserve existing facilities” is a stated element of the City’s 2004 adopted Legislative Policy.

### Federal Funding

The majority of federal transportation funding is used for capital projects, such as new highway and rail construction, and for specific projects earmarked by Congress. The Surface Transportation Program (STP) is one of the key funding programs in TEA-21, the multi-year transportation-funding bill that was passed by Congress in 1998. The STP is a flexible program that can be used for transit, pedestrian and bicycle facilities as well as on roads and highways. In the nine-county Bay Area, the bulk of STP goes to fund the regional pavement maintenance shortfall and the transit capital shortfall.

The Metropolitan Transportation Commission (MTC) administers federal funds at the regional level. Over the past year, MTC has gone through a process of developing a plan for transportation funding that will come into the region over the next 25 years. This effort, the Regional Transportation Plan (T 2030) allocates federal and other funding to regional projects throughout the Bay Area. In conjunction with the T 2030 process, MTC also conducted a survey of pavement maintenance needs to develop a more reliable base to define the needs of local jurisdictions.

City staff currently serves as members of MTC’s Local Streets and Roads Committee and the Bay Area Partnership, two groups that provided direct input into the development of regional transportation policy supporting increased funding for local streets and roads.

MTC is expected to direct \$990 million in federal funding during the 25-year horizon of T 2030 to address the shortfall on specified roadways throughout the nine counties in the Bay Area. MTC has programmed \$57.3 million dollars towards local street and roads maintenance funding in fiscal years 2005-06 and 2006-07, contingent on the passage of the reauthorization of TEA-21. Of the \$57.3 million dollars allocated within the nine-county Bay Area, Santa Clara County’s apportionment is roughly \$16.1 million. The City of San José’s share during 2005-06 and 2006-07 is approximately \$6.6 million. At its September 7, 2004 meeting the City Council adopted a resolution authorizing an application for Federal Surface Transportation Program (STP) funding for 2005-06 and 2006-07. This funding is expected to be made available in October 2005.

Currently, the TEA-21 reauthorization is more than one year overdue. On September 30, 2004, President Bush signed an eight-month extension of TEA-21 until May 31, 2005. It was the sixth extension of TEA-21, which officially expired on September 30, 2003. Unable to complete work on the reauthorization prior to Congress adjourning prior to the November election, Congress will renew efforts to enact a six-year funding bill in the new 109<sup>th</sup> Congress in January 2005.

During the TEA-21 reauthorization discussions the City has participated in aiding in the shaping of the program through the leadership role of San José in the National League of Cities (NLC). The NLC has advocated for positions that are representative of the needs of local governments. These positions included keeping the flexibility in the program that allows funds to be available for transportation improvements that are locally identified.

### State Funding

In 1999, the California Transportation Commission (CTC), in cooperation with the California Department of Transportation (Caltrans) and regional transportation planning agencies from throughout the state, produced a 10-year needs assessment of California's transportation network. The assessment identified unfunded rehabilitation needs for the state highway system, local streets and roads, and public transit. The assessment suggested that California's unfunded transportation needs through 2009 would exceed \$100 billion.

In 2000, in an effort to begin to address the state's transportation infrastructure needs, the California State Legislature and Governor Davis approved the Traffic Congestion Relief Plan (TCRP), which provided approximately \$6.8 billion in new state revenues for transportation from FY 2001 through FY2006. Due to the economic downturn and strain to the state budget, the expenditure plan for TCRP was extended an additional two years, through FY 2007-08.

Proposition 42, requires that the state portion of the sales tax on gasoline be used to improve highways, local streets and roads and mass transit. According to language included in Proposition 42, beginning in 2008 after the sunset of the TCRP, Proposition 42 funds would be allocated 40 percent to the State Transportation Improvement Program (STIP), 40 percent to local streets and roads (20 percent to cities and 20 percent to counties) and 20 percent to mass transit. It is estimated that when Proposition 42 funds begin to flow, the City would receive an additional \$8 million in funding for the City's street maintenance program.

The City has continued to advocate at the State level for pavement maintenance funding. Previous activities have included:

- Supporting Proposition 42 on the March 2002 ballot
- Supporting ACA 21 (Bogh), ACA 24 (Dutra), ACA 29 (Harmen), and SCA 20 (Torlakson) – legislation that would keep Proposition 42 funds for transportation purposes
- Advocating during budget discussions to protect funding for local streets and roads from being suspended
- Opposed Propositions 68 and 70 on the November 2004 ballot, which if passed would jeopardize approximately \$1.2 billion in transportation funding that would provide needed resources for local streets and roads (roughly \$2 million for the City of San José) and the TCRP, a funding source for the BART to Silicon Valley Project.

### Regional Funding

As part of the development of the 1996 Measure A/B package of transportation improvements, the need was identified for a program to improve the pavement condition of local streets and fill potholes in all 15 cities and on County roads and expressways. On November 5, 1996, the voters of Santa Clara County approved Measure A/B, which permitted a general half-cent sales tax to be administered by the county Board of Supervisors for a period of nine years. An important component of the 1996 Measure A/B program was funding for local street maintenance. Support for “pot hole” maintenance was at that time and continues to be popular with residents living in Santa Clara County. Under this program, San José received approximately \$35.5 million to fund these vital maintenance services. These funds were provided early in the program and have been expended by the City.

As discussions begin to move forward regarding future local measures that may fund transportation, it is clear that funding for local street maintenance is a priority. The Santa Clara Valley Transportation Authority (VTA) is reviewing possible strategies for future funding for operations. One of VTA’s scenarios would, if approved by their Board of Directors, place on the 2006 November ballot a measure to establish a new permanent half-cent sales tax with 75 percent of the funds allocated to VTA and 25 percent provided to the 15 cities and the County for pavement maintenance and other transportation activities. VTA has estimated that if passed by voters in Santa Clara County approximately \$2.5 billion would be designated to local governments between FY 2008 and FY 2036. The City will continue to advocate for the inclusion of pavement maintenance funding in any future transportation measure that is placed on the ballot. In addition, it is imperative that any formula that is developed for the allocation of funding reflects San José’s population and number of street miles.

### New Legislative Priorities

During the fall, the City will undertake the process of defining its Legislative priorities for 2005. These priorities are approved by the City Council and are utilized by staff and the City’s advocacy team to promote and support the City’s main legislative priorities. As in past years, the development of new sources for transportation funding and the protection of those funds will continue to be a high priority for the Transportation City Service Area.

Additionally, DOT proposes to present to the BBT Committee in the next calendar year an updated comprehensive strategy for addressing the City’s shortfall of pavement maintenance needs. The current shortfall is \$21 million annually. This strategy will address funding advocacy efforts at the federal, state and regional levels, as well as possible options for augmenting local revenue sources, as requested by the Committee at the September 13, 2004 meeting. It is suggested that this report be scheduled for March 2005 as part of the Committee’s next work plan.

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